SUPREME COURT, U. S.

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1969

NO. 452

DONALD LEE HALE,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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TO THE HONORABLE, THE CHIEF JUSTICE AND THE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Petitioner, Donald Lee Hale, prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fifth Circuit entered in the case of Donald Lee Hale, Appellant, v. United States of America, Appellee, No. 26318 in that Court on April 15, 1969 and the order filed June 13, 1969, denying petition for rehearing.

OPINION BELOW

The opinion of the United States Court of Appeals for the Fifth Circuit is identified as page 75 in Transcript of Record, certified by the Clerk of the United States Court of Appeals for the Fifth Circuit. (App. A, p. 11).

In an order filed June 19, 1969, a stay of judgment, issued as mandate, was granted by the United States Court of Appeals for the Fifth Circuit. (App. B, p. 21).

In an order dated July 9, 1969, Mr. Justice Black extended the time for filing a petition for writ of certiorari to August 12, 1969. (App. C, p. 23).

JURISDICTION

The Court's jurisdiction is invoked under 28 U.S.C.A. 1254(1).

QUESTIONS PRESENTED

The questions presented by this petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit include:

1. The denial to the petitioner of his right to due process of law in a fair trial, resulting from the misconduct of the government in concealing from petitioner, court and jury, that agents of the FBI had, prior to the trial, located and possibly interviewed Charles Ladd.

2. The denial to the petitioner of due process of law and a fair trial, in that the government's file, ostensibly turned over to the petitioner, did not reveal, either through error design, a vitally important fact, i.e., that the FBI did, as early as March 13, 1968, know the whereabouts of Charles Ladd.

3. The denial to the petitioner of due process of law in that by the government's concealing from him the whereabouts of Charles Ladd, he was denied the opportunity of showing to the jury:

(a) That the automobile in question had been registered to Charles Ladd between the date of its theft and the date when it was found in petitioner's constructive possession.

(b) That Charles Ladd was wanted by the Chattanooga police on charges of receiving and concealing stolen property.

(c) That the Government knew prior to the time of trial where Charles Ladd was and could produce him.

Had petitioner been able to present these matters to the jury, the already shaky inference of guilt against him, based on mere constructive possession 6 months and 19 days after the theft, would have been totally destroyed.

STATUTORY PROVISIONS INVOLVED

Petitioner was charged with two offenses under 18 U.S.C.A. 2312, and 18 U.S.C.A. 2313.

U.S.C.A. 2312 charges unlawful transportation in interstate commerce, and U.S.C.A. 2313 charges the receiving, concealing, storing, bartering, selling and disposing of a stolen motor vehicle.

STATEMENT OF THE CASE

Petitioner, a resident of Rossville, Georgia, was indicted under 18 U.S.C.A. 2312 and 2313, charged in the first section with unlawfully, wilfully and knowingly trans-